

REMARKS

Applicant understands that Applicant cannot, as a matter of right, amend any finally rejected claim, add new claims, or reinstate previously canceled claims after a final Office Action. However, according to MPEP §714.13, amendments that cancel claims, adopt Examiner suggestions, remove issues for appeal, or in some other way require only a cursory review by the Examiner may be considered. In this regard, Applicant respectfully submits that the claims have been amended to clarify features recited in the claims. Accordingly, Applicant respectfully submits that only a cursory review of the cited references is necessary by the Examiner to determine the patentability of amended independent claims 1 and 10. In addition, Applicant respectfully submits that the above-requested amendments are proper despite the finality of the outstanding Office Action because the amendments place the application in condition for allowance and/or place the application in better form for appeal. No question of new matter arises and entry of the above-requested amendments is respectfully requested.

Claims 1 and 4-19 are before the Examiner for consideration.

Objection to the Drawings

The drawings have been objected to under 37 C.F.R. §1.83(a) for failing to show every feature of the invention specified in the claims. In particular, it is asserted that the veil recited in claim 6 is not illustrated in the drawings. The Examiner states that the veil must be shown in the figures or canceled from the claims.

In response to this objection, Applicant submits herewith a new sheet of drawings, FIGS. 1e-1h, which depicts the addition of a decorative veil 11 to the top surface of the acoustical substrate 10. Applicant respectfully submits that support for the addition of the decorative veil 11 to the top surface of the acoustical substrate 10 is found in at least in paragraph [0021] of the specification. In addition, Applicant submits that paragraph [0021] has been amended to reflect the use of reference numeral 11 in the new sheet of drawings.

In view of the submission of new Figures 1e-1h, Applicant respectfully requests that this objection be reconsidered and withdrawn.

Claim Objections

Claims 4, 5, 7, and 8 have been objected to under 37 C.F.R. §1.75(c) for failing to further limit the subject matter of a previous claim. The Examiner asserts that the claims do not constitute a further limitation because the claims do not refer to a preceding claim.

In response to this objection, Applicant respectfully submits that claim 5 depends from claim 1 and claims 7 and 8 depend directly from claim 5. Therefore, it is respectfully submitted that these claims are in proper dependent form.

With respect to the objection to claim 4, Applicant submits that, according to MPEP §608.01(n) and 37 C.F.R. §1.75(c), "one or more claims may be presented in dependent form, referring back to and further limiting another claim or claims in the application". Neither MPEP §608.01(n) nor 37 C.F.R. §1.75(c) requires that a claim depend from a *preceding* claim. The rules only require that the claim refer back to and limit another claim in the application. In this regard, Applicant submits that claim 4 depends from claim 5 and further limits the features recited in claim 5. Claim 5, in turn, provides further limitations to claim 1. Thus, it is respectfully submitted that claim 4 is of proper dependent form and further limits the claim from which it depends.

In view of the above, Applicant submits that claims 4, 5, 7, and 8 are in proper dependent form as presented above and respectfully requests that this objection be reconsidered and withdrawn.

Rejection under 35 U.S.C. §112, first paragraph

Claims 1 and 4-19 have been rejected under 35 U.S.C. §112, first paragraph, for lack of enablement. In particular, the Examiner asserts that claim 1 recites a compressed first material that extends throughout the peripheral edge and which has a second density greater than the first. The Examiner asserts that it was not set forth originally that the compressed material extends throughout both the edge and the body. Thus, the Examiner asserts that the features of claim 1 added in the previous Amendment are new matter.

In response to this rejection, Applicant respectfully submits that Applicant is not claiming that the body contains compressed material. Indeed, Applicant is claiming that only the peripheral edge portions are formed of compressed material. Applicant submits that support for the compressed peripheral edge portions is found throughout the specification, such as, for example, at paragraph [0024] and in Figures 1a-1d. Accordingly, it is

respectfully submitted that claim 1 is adequately supported by the specification and Applicant respectfully requests that the Examiner reconsider and withdraw this rejection.

Rejection under 35 U.S.C. §112, second paragraph

Claims 1 and 4-19 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite. In particular, the Examiner asserts that it is not clear in claim 1 what has a second density or how the edge is formed by compressing portions of the main body. With respect to claims 6 and 7, it is asserted that it is not clear where the second material is placed. Additionally, the Examiner asserts that there is no antecedent basis for the recitation of “top major surface” in claims 6 and 7. The Examiner states that a similar rationale applies to claims 8 and 9. Further, the Examiner asserts that it is not clear from claim 10 as to what is being rotated.

In response to this rejection, Applicant has amended claims 1, 6, 7, 8, 9, and 10 to clarify the claimed subject matter. As amended, claims 1 and 10 define an acoustic panel that has a main body portion and peripheral edge portions that are formed by compressing one of the edge portions to increase the density of the first material and then rotating the compressed material in the edge portion to establish a side surface that is translocated from the top surface after the side edge portion is rotated.

In claims 6-9, the decorative veil (claim 6), decorative second material (claim 7), or integral decoration (claims 8 and 9) is placed or formed on the top surface so that the side surface of the panel, which is formed when the compressed peripheral edge portions are rotated, will have the decorative veil, decorative second material, or integral decoration thereon after the rotation of the peripheral edge portions. In addition, the word “major” has been removed from claim 7 so that the “top surface” has proper antecedent basis.

Applicant submits that, as amended, claims 1, 6, 7, 8, 9, and 10 are sufficiently definite. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Rejection Under 35 U.S.C. §102(b)

Claims 1, 5, and 7-9 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,907,193 to Heller (“Heller”). The Examiner asserts that Heller teaches a plastic sheet material container that is seen as functioning as an acoustic panel. It is further

asserted that Heller teaches a container that is joined by fold lines and compressed, with the sheet material between the indentations having a greater density than the density away from the fold lines. In addition, the Examiner asserts that the plastic sheet material may be formed of polystyrene and can be folded on itself to form the container.

In response to this rejection, Applicant respectfully directs the Examiner's attention to independent claim 1 and submits that claim 1 defines a decorative acoustic panel that is not taught (or suggested) within Heller. Applicant respectfully submits that Heller does not teach (or suggest) a decorative acoustic panel that includes (1) a main body having a decorative top surface and a bottom where the main body is formed of a first material having a first density and (2) at least one peripheral edge portion positioned at a side of the main body and having a decorative side surface oriented generally perpendicular to the top and bottom surfaces, where the at least one peripheral edge portion is formed of compressed first material that extends throughout the at least one peripheral edge portion, where the compressed first material in the peripheral edge portion has a second density greater than the first density, and where the at least one peripheral edge portion is folded about a fold point such that the at least one peripheral edge portion is positioned flush against the main body and the decorative side surface is translocated from the top surface after the at least one peripheral edge portion is folded about the fold point.

Applicant notes that in at least one embodiment, Heller teaches the formation of fold lines in a semi-rigid or rigid plastic sheet material that are provided with stress relief indentations by heat scoring at opposite faces along the intended fold line. (*See, e.g.*, column 3, lines 41-43; column 6, lines 36-43; the Abstract; and FIG. 2). These relief indentations are created through the compaction and removal of material from the site of scoring. (*See, e.g.*, column 3, line 63 to column 4, line 4 and FIG. 1). The sheet material can be formed into a box or carton blank that can be shipped in a flat or knocked-down condition. (*See, e.g.*, column 3, lines 35-37). The inclusion of the fold line in the sheet material minimizes undesired cracking or crazing and discoloration of the material when the material is folded. (*See, e.g.*, column 6, lines 15-21).

Applicant submits, however, that there is no teaching (or suggestion) within Heller of a panel in which the end portion is formed of compressed material that is rotated to translocate the top surface corresponding to the peripheral edge portion generally perpendicularly to form a decorative side surface as claimed in claim 1. In order for a

reference to be anticipatory, each and every element of the claimed invention must be present within the four corners of the cited reference. Because Heller does not teach a peripheral edge portion located between a top surface and a bottom surface of the main body or a peripheral edge portion formed of a compressed first material where the compressed first material extends throughout the peripheral edge portion, Applicant respectfully submits that Heller is not an anticipatory reference. Accordingly, Applicant submits that independent claim 1 is not anticipated by Heller. With respect to dependent claims 5 and 7-9, Applicant submits that because independent claim 1 is not taught (or suggested) within Heller and claims 5 and 7-9 are dependent upon independent claim 1 and contain the same elements as claim 1, dependent claims 5 and 7-9 are also not taught (or suggested) by Heller.

In view of the above, Applicant submits that claims 1, 5, and 7-9 are not anticipated by Heller and respectfully requests that this rejection be reconsidered and withdrawn.

Rejection Under 35 U.S.C. §§102(b)/103(a)

Claims 1 and 5-19 have been rejected under 35 U.S.C. §102(b) as being anticipated by, or in the alternative, under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 3,096,879 to Schumacher ("Schumacher"). The Examiner asserts that Schumacher teaches a variety of synthetic fibers in a body having an edge flap folded and tucked in the body. The Examiner asserts that the body of Schumacher functions as an acoustic panel. Additionally, the Examiner asserts that because the body and the edge are of the same fibrous material, the compressed material extends throughout the edge. It is also asserted that the crimped or curled fibers have a lesser density at the fold or compressed regions than the straight fibers positioned outside the compressed regions. The Examiner alternatively argues that if the claimed effective density is not inherent in Schumacher, then it would have been obvious to one of skill in the art to alter the density by choosing the type of fibers used in the package. Further, it is asserted that the density is a result-effective variable and determining the optimum density would have been obvious to one of skill in the art.

In response to this rejection, Applicant respectfully directs the Examiner's attention to independent claims 1 and 10 and submits that claim 1 defines a decorative acoustic panel and claim 10 defines an acoustic panel that are not taught or suggested within Schumacher.

Schumacher teaches a packaging material that is formed of a soft, resilient layer of fibers bonded to a backing such as a flexible sheet of corrugated paperboard. (*See, e.g.,*

column 1, lines 16-19). The packaging material is folded around an article positioned on the fibrous layer and slipped into a paperboard carton to complete the package. (*See, e.g.*, column 1, lines 23-25). The fibrous layer is preferably formed of plastic fibers having varying lengths from about ½ to two inches. (*See, e.g.*, column 1, lines 26-29). The fibrous layer is soft and resilient and has a very high loft. (*See, e.g.*, column 1, lines 38-39). As a result, the packaging material can be shaped around articles of irregular contour, and the fibers can be compressed without loss of softness or loft, or balling of fibers, thereby cradling and cushioning the article. (*See, e.g.*, column 1, lines 42-46).

Applicant submits, however, that there is no teaching or suggestion of an acoustic panel formed of (1) a main body having a first material at a first density and (2) a folded peripheral edge portion formed of compressed first material and having a second density greater than the first density, where the side surface is formed of the translocated portion of the top surface as required by claim 1 or an acoustic panel that includes (1) a main body and (2) a reinforcing edge of compressed fibers formed by rotating the flange of compressed fibers until the flange is positioned again the main body, where the rotated flange establishes a side surface formed of a translocated portion of the front surface of the body as claimed in claim 10. Indeed, Schumacher is silent with respect to any teaching or suggestion of compressing an edge portion (*i.e.*, a peripheral edge or reinforcing edge) to allow the edge portion to rotate and translocate the top surface into a generally perpendicularly extending side surface as claimed in claims 1 and 10. Further, there is simply no teaching or suggestion within Schumacher of edge portions that have a greater density than the central main body due to the compression of the material in the edge portions. Accordingly, it is submitted that claims 1 and 10 are non-obvious and patentable.

Additionally, Applicant submits that one of ordinary skill in the art would have no motivation to arrive at the acoustic panels of claims 1 and 10 based on the teachings of Schumacher. To establish a *prima facie* case of obviousness, there must be some motivation, either within the reference or in the knowledge of those of skill in the art, to modify the reference or combine the references' teachings, there must be a reasonable expectation of success, and the prior art references must meet all of the claim limitations. (*See, e.g., Manual of Patent Examining Procedure*, Patent Publishing, LLC, Eighth Ed., Rev. 6, August 2007). It is respectfully submitted that one of skill in the art would have no motivation to form an acoustic panel that includes a side surface that is a translocated portion of the top surface and

where the side surface has a higher density due to the compression of the edge portion forming the side surface. Without some teaching or suggestion, there can be no motivation, and without motivation, there can be no *prima facie* case of obviousness.

Also, as discussed above, Schumacher does not teach or suggest a side surface that is a translocated portion of the top surface or that the side surface has a higher density. Therefore, Applicant respectfully submits that Schumacher fails to teach all of the claim limitations set forth in claims 1 and 10. Accordingly, it is submitted that a *prima facie* case of obviousness has not been established for this additional reason.

In view of the above, it is respectfully submitted that independent claims 1 and 10 are not taught or suggested by Schumacher and that claims 1 and 10 are therefore non-obvious and patentable. With respect to dependent claims 5-9 and 11-19, Applicant submits that because independent claims 1 and 10 are not taught or suggested by Schumacher and because claims 5-9 and 11-19 are dependent upon one of claim 1 or claim 10 and contain the same elements as the claim from which they depend, dependent claims 5-9 and 11-19 are also not taught or suggested by Schumacher.

In light of the above, Applicant submits that claims 1 and 5-19 are not anticipated by, or obvious over, Schumacher and respectfully requests that this rejection be reconsidered and withdrawn.

Rejection Under 35 U.S.C. §103(a)

Claims 6 and 10-12 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 3,907,193 to Heller ("Heller") in view of U.S. Patent No. 3,096,879 to Schumacher ("Schumacher"). The Examiner admits that Heller fails to teach an additional second material affixed to the main body (claim 6), a reinforcing edge on a body formed by compressing an outer region to form compressed fibers of the flange (claim 10), or how the flanges are folded (claims 16-19). In this regard, Schumacher is cited for assertedly teaching a variety of synthetic fibers in a body having an edge flap that is folded and tucked in the body. The Examiner asserts that the body of Schumacher functions as an acoustic panel. Additionally, the Examiner asserts that because the body and the edge are of the same fibrous material, the compressed material extends throughout the edge. It is also asserted that the crimped or curled fibers have a lesser density at the fold or compressed regions than the straight fibers outside the compressed regions. The Examiner concludes that it would have

been obvious to one of skill in the art to modify Heller to include a second material and compressed fibers to assist in packaging and to give loft to foldable products as taught by Schumacher.

In response to this rejection, Applicant respectfully directs the Examiner's attention to independent claims 1 and 10 and submits that claim 1 defines a decorative acoustic panel and claim 10 defines an acoustic panel that are not taught or suggested within Heller and Schumacher.

Applicant submits that there is no teaching or suggestion of an acoustic panel formed of (1) a main body having a first material at a first density and (2) a folded peripheral edge portion formed of compressed first material and having a second density greater than the first density, where the side surface is formed of the translocated portion of the top surface as required by claim 1 or an acoustic panel that includes (1) a main body and (2) a reinforcing edge of compressed fibers formed by rotating a flange of compressed fibers until the flange is positioned again the main body, where the rotated flange establishes a side surface formed of a translocated portion of the front surface of the body as claimed in claim 10. Indeed, both Heller and Schumacher are silent with respect to any teaching or suggestion of compressing an edge portion (*i.e.*, a peripheral edge or reinforcing edge) to allow the edge portion to rotate and translocate the top surface into a generally perpendicularly extending side surface as claimed in claims 1 and 10. There is simply no teaching or suggestion within either Heller or Schumacher of edge portions that have a greater density than the central main body due to the compression of the material in the edge portion. Thus, it is respectfully submitted that the combination of Heller and Schumacher would not result in the claimed acoustic panels. Accordingly, it is submitted that claims 1 and 10 are non-obvious and patentable.

Additionally, Applicant submits that one of ordinary skill in the art would have no motivation to arrive at the acoustic panels of claims 1 and 10 that include a side surface that is a translocated portion of the top surface where the side surface has a higher density due to the compression of the edge portion forming the side surface based on the teachings of Heller and Schumacher. The combination of Heller and Schumacher simply does not teach or suggest the acoustic panels of claims 1 and 10, particularly the compression of the material in the edge portions into a density greater than the density of the material in the main body portion, and the translocation of the corresponding portion of the top surface into a side surface. Indeed, both Heller and Schumacher are silent with respect to any teaching or

suggestion of edge portions that have a greater density than the central main body due to the compression of the material in the edge portion. Without some teaching or suggestion, there can be no motivation, and without motivation, there can be no *prima facie* case of obviousness.

Also, as discussed above, Heller and Schumacher do not teach or suggest a side surface that is a translocated portion of the top surface or that the side surface has a higher density than the main body. Therefore, Applicant respectfully submits that Heller and Schumacher, alone or in combination, fail to teach all of the claim limitations set forth in claims 1 and 10. Accordingly, it is submitted that a *prima facie* case of obviousness has not been established for this additional reason.

In view of the above, it is respectfully submitted that independent claims 1 and 10 are not taught or suggested by Heller and Schumacher and that claims 1 and 10 are therefore non-obvious and patentable. With respect to dependent claims 6 and 11-12, Applicant submits that because independent claims 1 and 10 are not taught or suggested by Heller and Schumacher and because claims 6 and 11-12 are dependent upon one of claim 1 or claim 10 and contain the same elements as the claim from which they depend, dependent claims 6 and 11-12 are also not taught or suggested by Heller and/or Schumacher.

In light of the above, Applicant submits that claims 6 and 10-12 are not obvious over Heller in view of Schumacher and respectfully requests that this rejection be reconsidered and withdrawn.

Rejection Under 35 U.S.C. §103(a)

Claims 13-19 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 3,907,193 to Heller ("Heller") in view of U.S. Patent No. 3,096,879 to Schumacher ("Schumacher"), and further in view of U.S. Patent No. 3,835,604 to Hoffmann, Jr. ("Hoffmann"). The Examiner admits that Heller fails to teach decoration. In this regard, Hoffmann is cited for assertedly teaching a folded facing and insulation panel where the facing sheet has a decorative pattern such as indicia so that the installed appearance of the insulation is aesthetic or attractive. The Examiner concludes that it would have been obvious to one of skill in the art to have modified a panel formed by the combination of Heller and Schumacher to include decoration for aesthetic appearances. In addition, the Examiner

concludes that it would have been obvious to one of skill in the art to extend the decoration throughout the entire body to make the panel more attractive.

In response to this rejection, Applicant respectfully directs the Examiner's attention to independent claim 10 and to the arguments set forth above with respect to the rejection of claims 6 and 10-12 under 35 U.S.C. §103(a) to Heller in view of Schumacher and submits that claim 10 defines an acoustic panel that is not taught or suggested within Heller and Schumacher. In addition, Applicant submits that the teachings of Hoffmann do not add to the Examiner's rejection so as to make claim 10 unpatentable. Even with the addition of the teachings of Hoffmann, Heller and Schumacher still do not teach or suggest an acoustic panel that includes (1) a main body and (2) a reinforcing edge of compressed fibers formed by rotating the flange of compressed fibers until the flange is positioned again the main body, where the rotated flange establishes a side surface formed of a translocated portion of the front surface of the body as claimed in amended claim 10. As such, it is submitted that the combination of Heller, Schumacher, and Hoffmann does not teach or suggest Applicant's invention as recited in claim 10. Because claims 13-19 are dependent upon claim 10, which, as discussed in detail above, is not taught or suggested by Heller, Schumacher, and Hoffmann, Applicant submits that claims 13-19 are also not taught or suggested by Heller, Schumacher, and/or Hoffmann.

In view of the above, Applicant respectfully submits that claims 13-19 are non-obvious and patentable over the combination of Heller, Schumacher, and Hoffmann and respectfully requests that this rejection be reconsidered and withdrawn.

Rejection Under 35 U.S.C. §103(a)

Claims 4 and 14 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 3,907,193 to Heller ("Heller") in view of U.S. Patent No. 3,096,879 to Schumacher ("Schumacher") and U.S. Patent No. 3,835,604 to Hoffmann, Jr. ("Hoffmann"), and further in view of U.S. Patent No. 4,946,738 to Chenoweth, *et al.* ("Chenoweth"). The Examiner admits that Heller, Schumacher, and Hoffmann do not teach using bicomponent fibers. In this regard, Chenoweth is cited for assertedly teaching a nonwoven material that includes a matrix of glass fibers, solid or hollow homogenous synthetic fibers, and bicomponent synthetic fibers that have been intimately combined with a thermosetting resin into a homogenous mixture. It is asserted that the mixture is dispersed to form a blanket and

melted to be formed into complexly curved and shaped configurations. The Examiner concludes that it would have been obvious to one of skill in the art to have modified a panel formed by the combination of Heller, Schumacher, and Hoffmann to include bicomponent polyester fibers for the purpose of forming curved and shaped configurations.

In response to this rejection, Applicant respectfully directs the Examiner's attention to independent claims 1 and 10 and to the arguments set forth above with respect to the rejection of claims 6 and 10-12 under 35 U.S.C. §103(a) to Heller in view of Schumacher and submits that claims 1 and 10 define acoustic panels that are not taught or suggested within Heller and Schumacher. In addition, Applicant submits that the teachings of Hoffmann and Chenoweth do not add to the Examiner's rejection so as to make claim 1 or claim 10 unpatentable. Even with the addition of the teachings of Hoffmann and Chenoweth, Heller and Schumacher still do not teach or suggest an acoustic panel formed of (1) a main body having a first material at a first density and (2) a folded peripheral edge portion formed of compressed first material and having a second density greater than the first density, where the side surface is formed of the translocated portion of the top surface as claimed in claim 1 or an acoustic panel that includes (1) a main body and (2) a reinforcing edge of compressed fibers formed by rotating the flange of compressed fibers until the flange is positioned against the main body, where the rotated flange establishes a side surface formed of a translocated portion of the front surface of the body as claimed in amended claim 10. As such, it is submitted that the combination of Heller, Schumacher, Hoffmann, and Chenoweth does not teach or suggest Applicant's inventions as recited in claims 1 and 10. Because claims 4 and 14 are dependent upon claim 1 or claim 10, which, as discussed in detail above, are not taught or suggested by Heller, Schumacher, Hoffmann, and Chenoweth, Applicant submits that claims 4 and 14 are also not taught or suggested by Heller, Schumacher, Hoffmann, and/or Chenoweth.

In view of the above, Applicant respectfully submits that claims 4 and 14 are non-obvious and patentable over the combination of Heller, Schumacher, Hoffmann, and Chenoweth and respectfully requests reconsideration and withdrawal of this rejection.

Conclusion

In light of the above, Applicant believes that this application is now in condition for allowance and therefore requests favorable consideration.

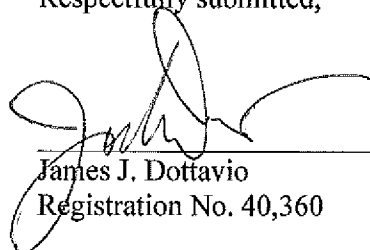
If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

If necessary, the Commissioner is hereby authorized to charge payment or credit any overpayment to Deposit Account No. 50-0568 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

Date:

12-2-08



James J. Dottavio
Registration No. 40,360

Owens Corning
Patent Department, Bldg. 21-0
2790 Columbus Road
Granville, Ohio 43023
(740) 321-7167